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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,868	02/19/2004	Nobuo Takeshita	0925-0212P	1982
2292	7590	04/25/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			KLIMOWICZ, WILLIAM JOSEPH	
			ART UNIT	PAPER NUMBER
			2627	
DATE MAILED: 04/25/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/780,868	Applicant(s) TAKESHITA ET AL.	
	Examiner William J. Klimowicz	Art Unit 2652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim et al. (US 2004/0070850 A1).

As per claims 1, 6 and 7, Kim et al. (US 2004/0070850 A1) discloses an optical actuator (FIG. 5) comprising: a focusing lens (10) for focusing a laser beam on a information disk; a lens holder (20) for holding said focusing lens (10); a focusing coil (31 and/or 32) for driving said focusing lens (10) in an axial direction (A) of said laser beam; a tracking coil (40) for driving said focusing lens (10) in a radial direction (B) of said information disk; a tilting coil (e.g., coils 31 and 32, collectively - see paragraph [0025] or alternatively, see paragraph [0008]) for pivotally rotating said focusing lens (10) on an axis (C) along the tangential direction of the disk; a pair of supporting members (two opposing vertical sides of blade (20) including the protuberance supporting the end of (W5) at (20)) each disposed on each of two opposing sides of said holder (20), each of said supporting members having at least three fixing elements (e.g., the means for fixing the wires (W1-W6 to the sides of (20)) disposed in an approximately

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circular arc (see FIGS. 5-7); and a plurality of linear elastic members (W1-W6) connected to each of said fixing elements.

As per claim 2, wherein said linear elastic members connected to each of said fixing elements are disposed on a cylindrical surface - see FIGS. 6-7.

As per claim 3, wherein said tracking coil (40) is fixed on a side of said holder (20), and an outer side of said tracking coil (40) is disposed outside of said holder (e.g., as seen in FIG. 5, the coil is affixed to an outside portion of the holder (20) which faces coils (31 and 32)).

As per claim 4, wherein said tracking coil (40) is fixed on a side of said holder (20), and an outer side of said tracking coil is disposed outside of said linear elastic members (W1-W6) (e.g., the uppermost surface side of coils (40) are above the uppermost portion of wires (W1) and (W4)).

As per claim 5, wherein single tracking coil (one of the coils (40)) is disposed on a side of said holder facing a permanent magnet (60).

Additionally, as per claim 6, a single permanent magnet is provided (e.g., the magnet is not back-to-back); there are four such single permanent magnets.

Additionally, as per claim 7, at least two single permanent magnets are disposed on opposite sides of the lens holder.

Response to Arguments

Applicants' arguments filed March 24, 2006 have been fully considered but they are not persuasive.

The Applicants state:

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The rejection of claims 1-5 under 35 U.S.C. §102(e) in view of Kim is improper because Kim is not prior art under 35 U.S.C. §102(e). The present application claims priority to Japanese Patent Publication No. 2003-052554 filed on February 28, 2003. A certified copy of the priority application was filed on February 19, 2004 and receipt was acknowledged by the Examiner on page 1 of the Action. Therefore, the effective filing date of the present application is February 28, 2003, which is prior to the filing date (i.e., July 8, 2003) of Kim. Accordingly, the rejection of claims 1-5 is improper because Kim is not prior art under 35 U.S.C. §102(e). Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-5 under 35 U.S.C. §102(e) in view of Kim.

The Examiner respectfully, but strenuously, disagrees with the Applicants. That is, the Examiner maintains that the rejection of claims 1-5 (now claims 1-7) under 35 U.S.C. §102(e) in view of Kim is indeed proper because Kim is prior art under 35 U.S.C. §102(e). More concretely, the Applicants cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Thus, since there is no certified translation of the priority document made of record, clearly the rejection of all pending claims under 35 U.S.C. §102(e) in view of Kim is pertinent and proper, contrary to the Applicants' misguided allegations.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

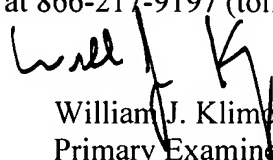
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (571) 272-7577. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Thi Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William J. Klimowicz
Primary Examiner
Art Unit 2627

WJK